DOCUMENT RESUME

ED 143 102 EA 009 814

TITLE	The Role of the Michigan Department of Education in Teacher/School Board Negotiations.
INSTITUTION	Michigan State Dept. of Education, Lansing. Office of Tenure, Negotiations and Retirement.
PUB DATE	Nov 76
NOTE	41p.; Appendixes A, C, and D may not reproduce clearly due to marginal legibility of orginal
EDRS PRICE	MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS	Agency Role; *Collective Bargaining; Educational Trends; Elementary Secondary Education; *Government Role; *State Boards of Education; *State Departments of Education; *State School District Relationship; Tables (Data); Teacher Strikes
IDENTIFIERS	*Michigan

ABSTRACT

The purpose of this booklet is to place in perspective the role of the Michigan State Board of Education, the Superintendent of Public Instruction, and the Michigan Department of Education in collective bargaining in education. Part 1 discusses the role of the State Board of Education in developing policy with respect to teacher-school board negotiations. Part 2 examines the informational role of the Department of Education in teacher-school board negotiations. Part 3 discusses the regulatory role of the State Board of Education and the Department of Education in teacher-school board negotiations. Part 4 presents some conclusions and recommendations related to teacher-school board negotiations, based on the observations of the Superintendent of Public Instruction from 1967 to 1976. The appendix presents data from Department of Education surveys of teacher-school board negotiations in Michigan, as well as sample letters from the Department of Education summarizing the legal responsibilities of Michigan school districts in event of a teacher strike. (Author/JG)

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THE ROLE OF THE MICHIGAN DEPARTMENT OF EDUCATION IN TEACHER SCHOOL BOARD NEGOTIATIONS

ED 143 182

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THE ROLE OF THE MICHIGAN DEPARTMENT OF EDUCATION IN TEACHER/SCHOOL BOARD NEGOTIATIONS

Office of Tenure, Negotiations
and Retirement

Michigan Department of Education
1976

FOREWORD

The advent of teacher-board negotiations has had considerable impact on public education. In the decade that followed the 1965 amendments to the Public Employment Relations Act which allowed teachers and other public employees the right to bargain collectively, many changes evolved in the roles played by employee and employer groups in teacher-board negotiations.

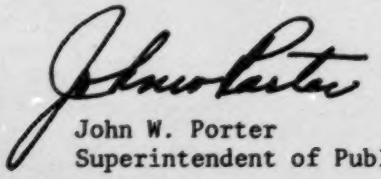
Public reaction as to how collective bargaining in public education affects the general welfare of the citizens of the state has undergone a change from time to time throughout the past decade as well. Thus, the public has played and continues to play an important role in the collective bargaining process in education.

The role of the Governor and of the Legislature is extremely important to collective bargaining in education. Balancing the interests of all of the parties to the collective bargaining process and ensuring the welfare of Michigan's citizens is a difficult role to fill.

The State Board of Education, the Superintendent of Public Instruction and the Michigan Department of Education have several roles to play in the collective bargaining process in education. The designated responsibilities and roles stem from a mandate in the Constitution of the State of Michigan, in legislation and in administrative regulations.

Each year the parties involved in teacher-board negotiations in education, as well as those affected by the collective bargaining process, gain more awareness and insight as to the dimensions of the role each plays in negotiations. A more thorough understanding of the role of each party, either directly involved in teacher-board negotiations or directly affected by the collective bargaining process in education, should lead toward better labor relations.

The purpose of this booklet is to place in perspective the role of the State Board of Education, the Superintendent of Public Instruction and the Michigan Department of Education in collective bargaining in education. The role description outlining the activities and functions of the Michigan Department of Education relative to teacher-board negotiations was prepared by Faith Bishop. Questions related to this booklet may be directed to her at the Tenure, Negotiations and Retirement Office, Michigan Department of Education.



John W. Porter
Superintendent of Public Instruction

November, 1976

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THE ROLE OF THE MICHIGAN DEPARTMENT OF EDUCATION IN TEACHER-SCHOOL BOARD NEGOTIATIONS

INTRODUCTION

In the past few years considerable efforts have been put forth to gather, compile and disseminate information about the role of state education agencies (SEAs) in teacher-school board negotiations. The Upper Midwest Regional Interstate Consortium is just one of the several groups exploring the role SEAs play in teacher-school board negotiations. Findings about the roles SEAs play in negotiations are reported in the Consortium's publications, State Education Agency Roles in Teacher Collective Negotiations, and Public Policy and State Education Agency Roles in Teacher Labor Relations.

Both project reports have been beneficial because they brought together the general roles assumed by or mandated to the SEAs and, in addition, outlined many of the aspects which should be considered when a SEA develops specific functions and procedures consistent with its roles, both mandated and assumed, in the negotiation process.

Each state has dealt with the issue of public sector collective bargaining in a different way. As a result, a wide variety of public employment collective bargaining statutes, or public employment practices in lieu of statutes, precludes uniformity in the roles SEAs play in teacher-school board negotiations. Certain of the components of public employment collective bargaining, nevertheless, have some elements in common. Thus, an examination of these elements is helpful in comparing specific functions and activities developed by the individual states.

Before outlining the role of the SEA in Michigan, it would help set the stage by outlining briefly the state statutes pertinent to collective bargaining in public sector employment.

Michigan has a public sector collective bargaining law that affects education. It is patterned after the National Labor Relations Act that covers the nation's private sector employees. The Michigan Public Employment Relations Act (PERA) covers all public employees except those in state classified service. Specifically, in the area affecting education, it covers K-12 professional, classified and post secondary professional employees.

The Act is administered by the Michigan Employment Relations Commission, a division of the Michigan Department of Labor. The Commission, among other things, determines the bargaining unit, certifies elections, provides mediation and fact-finding services and rules on unfair labor practice charges.

The scope of bargaining, according to the provisions of the Act, are wages, hours and other terms and conditions of employment. Executives and supervisors are excluded from employee bargaining units but may form their own bargaining unit. Bargaining units have exclusive representation and may bargain to gain agency shop provisions.

Strikes by public employees are prohibited under the provisions of the Act. However, when the 1965 amendments were enacted giving teachers and other public employees the right to bargain collectively, those sections of the Act which outlined the penalties for striking were repealed. The effect of repealing the strike penalty provisions, has been seen by many as recognition of the de facto, if not de jure, right of teachers to strike.

Subsequently, the Michigan Supreme Court decision issued in 1968 in the Holland case (380 Mich 314) tempered the no-strike provisions of PERA by ruling that while injunctive relief can be granted, the courts are not required to grant it in every case of a strike by public employees. Then, in a 1975 Michigan Supreme Court decision, the discharge of teachers who struck in violation of the PERA was upheld, absent a finding (by MERC) of unfair labor practices by the Crestwood Board of Education (393 Mich 616).

With that brief sketch of PERA, let us move on to the roles of the Michigan Department of Education in teacher-school board negotiations in Michigan.

There are three fundamental roles the State Board of Education, the Superintendent of Public Instruction and the Michigan Department of Education play in teacher-school board negotiations. Those SEA roles are discussed in Parts I, II and III of this publication.

The first role concerns the development of policy with respect to teacher-school board negotiations as they affect constitutionally and legislatively delegated duties and responsibilities of the Michigan State Board of Education. A more detailed description of this state role is found in Part I.

An informational role is also one of the roles played by the Michigan Department of Education in teacher-board negotiations. Discussion of this role is found in Part II.

Much of the state agency activity in Michigan centers around the regulatory, or third, role of the State Board of Education and the Michigan Department of Education in teacher-board negotiations. Discussion of this role as well as the procedures followed in carrying out the regulatory functions are found in Part III.

Part IV contains some conclusions and recommendations relative to teacher-school board negotiations. The conclusions and recommendations

are based on the observations of the Superintendent of Public Instruction during the period of 1967 to 1976.

Part One

THE ROLE OF THE MICHIGAN STATE BOARD OF EDUCATION IN POLICY DEVELOPMENT RELATIVE TO TEACHER-SCHOOL BOARD NEGOTIATIONS

The state education agency in Michigan assumed a policy development role in collective bargaining for public employees before enabling legislation was enacted. The Michigan State Board of Education unanimously supported a policy that favored the passage of legislation extending or giving teachers the right to bargain collectively. In that policy statement the Board listed, as well, certain aspects public employee collective bargaining legislation should have; namely, the establishment of a governmental agency to determine appropriate bargaining units, settle unfair labor practice disputes, oversee representation elections and provide mediation and conciliation services.

When Public Act 379 was enacted on July 23, 1965, Michigan joined a small group of states which had a comprehensive law governing employee relations in the public sector. Immediately, teachers and other school employee groups began exercising their rights, under the new Act, to bargain collectively with school boards. Today, 525 of Michigan's 530 K-12 school districts have a certified teachers' bargaining unit.

Another aspect of the policy development role assumed by the state agency concerns the sponsoring of conferences and meetings to offer instruction on the collective bargaining process. The State Board of Education reached the conclusion in 1965 that representatives of teachers, school administrators and school boards needed to have a comprehensive understanding of contract negotiations, the new statute and the functions of the Michigan Employment Relations Commission.

Consequently, the State Board of Education and the Michigan Department of Education, with the cooperation of Michigan State University's School of Labor and Industrial Relations, held a series of conferences to inform school personnel about their responsibilities under the new amendment to the Public Employment Relations Act. Similar conferences continued for the next several years and, in 1967, A Guide to Collective Negotiations in Education was published by Michigan State University's School of Labor and Industrial Relations in cooperation with the Michigan State Board of Education. The guide was a product of the jointly sponsored program of conferences.

The current policy statement of the Michigan State Board of Education on the subject of teacher-school board negotiations was adopted in 1967. It reads as follows:

> "The subject of teacher contract negotiations, of much current concern because of the nearness of school opening, has been of primary importance to the State Board of Education since collective bargaining entered the education picture.

"The members of the State Board of Education are aware of the achievements during the first year in reaching agreements. These contracts had been carried out successfully to the satisfaction of all parties concerned. It is a credit to the educational community that class interruptions have been minimal, particularly since this was an entirely new experience for most of the parties concerned.

"The Board has taken several significant steps to help ease problems of teacher contract negotiations, steps based on the firm conviction that all involved in negotiations -- teachers, administrators and school board representatives -- are dedicated to education of children. This mutual concern binds all in education together and supplies a foundation upon which agreement can and will be reached.

"These are measures taken to help at the bargaining tables of every school district in our state.

"The State Board of Education calls on all concerned to use every resource to reach fair and equitable answers to the issues in dispute. The Board is convinced that current negotiations, accompanied by good faith and mutual respect, will produce just settlements, as collective bargaining has been doing for many years in other areas.

"If unable to reach agreement, school boards, administrators and teacher organizations are being urged to request the State Labor Mediation Board to supply conciliation or mediation assistance. If the issues cannot be resolved with this assistance, then it is the State Board of Education's judgment that impartial fact-finding commissions should be established to study the issue and to help in effectuating settlements that serve the public interest.

"The State Board of Education urges all groups involved in negotiations to immediately resume negotiations where they have broken off, without delay, and utilize all of the avenues available in this area. At the same time the State Board of Education and the Department of Education stand ready to assist in any way possible. We also urge that all parties to school negotiations give consideration to opening schools as scheduled while continuing negotiations."

The State Board of Education, in actions to implement policy, has occasionally suggested to teachers and board bargaining units that the use of a voluntary interest arbitration process be considered when the parties seem unable to resolve the impasse issues in dispute. This suggestion has been made only when a lengthy teacher work stoppage in a local school district has been deemed to be harmful or potentially harmful to the students.

The criterion to establish harm to the students is based on the inability of the school district, due to a lengthy teacher work stoppage, to provide the mandated 180 days and 900 hours of student instruction before the end of the school year.

A review of the responsibilities that the State Board of Education shares with each local district indicated four specific areas which may be affected by teacher-school board negotiations. Each school district is to provide a minimum of 180 days of student instruction. Each school district is to provide a minimum of 900 hours of student instruction. Each school district, on a specified date, is to conduct a student membership count so that the amount of state membership aid due each district may be determined. Each school district must submit a balanced budget to the Michigan Department of Education by a specified date.

Since 1973, the Department, with the approval of the State Board of Education, established and followed procedures suggested by the Superintendent of Public Instruction concerning the actions to be taken if an impasse in teacher contract negotiations threatened a local district's ability to fulfill the specific responsibilities as stated in the preceding paragraph. Those actions are:

1. To monitor the progress of teacher contract negotiations through information collected from the intermediate school districts as to those local districts having a ratified or tentative agreement with their teachers, as well as those districts experiencing work stoppages.

2. To inform the local boards of education experiencing work stoppages of their responsibility to take appropriate action in order to open schools and comply with statutory requirements.

3. To collect information as to how the school calendar would be extended to provide the required number of instructional days.

These actions are consistent with the policy established by the State Board of Education and the statutory responsibilities and administrative rules of the state.

Several times throughout the past ten years the SEA has taken preliminary steps aimed at putting together a proposal for amendatory legislation to improve the Public Employment Relations Act. Meetings with representatives of teachers and school boards have not yet produced an agreement on legislation acceptable to all. Therefore, the Michigan State Board of Education has not submitted proposed legislation to amend the Public Employment Relations Act.

Department staff does, however, analyze bills introduced by legislators proposing amendments to the Public Employment Relations Act. After the State Board of Education reviews the analysis, they then transmit the analysis to the Governor and to the Legislature.

Part Two

THE INFORMATIONAL ROLE OF THE MICHIGAN DEPARTMENT OF EDUCATION

In the research done by the Upper Midwest Regional Interstate Project[1] on the roles SEAs presently play in teacher-board negotiations, it was found that one role most frequently assumed by an SEA is of an informational nature. The informational role includes providing (to both parties) facts about teacher salaries, pupil-teacher ratios, tax bond referenda and assessed evaluation.

Information of this nature has been published annually by the Michigan Department of Education in bulletins numbered 1011, 1012 and 1013. The information in all three bulletins is and has been used by negotiators on both sides in the collective bargaining process.

It should not be taken for granted, however, that the collection and publication of these data occurred as a role the Michigan Department of Education assumed in Michigan solely for the teacher-school board negotiation process. Bulletin 1011, Analysis of Michigan Public School Revenues and Expenditures, was first published by the Michigan Department of Education in 1932 -- more than 30 years before legislation enabling collective bargaining for public employees was enacted in Michigan. The second bulletin, number 1012, Ranking of Michigan Public High School Districts by Selected Financial Data, was first published in 1962 -- three years before enactment of Public Act 379 in 1965. Bulletin number 1013, Summary of Expenditure Data for Michigan Public Schools, was initially intended for the use of the members of the Michigan Legislature. Since 1971 this bulletin has been available not only to the Legislature but to the general public, as well.

The three Michigan Department of Education annual publications supply financial data by groups of like-sized school districts (1011), and individual school districts (1012). The newest bulletin supplies a summary analysis of fund equities, school revenues and school expenditures by like-sized school districts. Information in the Michigan Department of Education publications is particularly valuable in providing base-line data when the factfinding process is used in teacher-board negotiations.

Since the bulletins containing financial data are published in February for the previous school year, much of the information is not as current as negotiators at the table would wish. Consequently, state

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1 _____, Upper Midwest Regional Interstate Project, State Education Agency Roles in Teacher Collective Negotiations, administered by Wisconsin State Department of Public Instruction, Madison.

organizations representing both teachers and school boards -- labor and management, if you will -- also collect and distribute data designed to fill specific needs in teacher-board negotiations.

Perhaps the reason many SEAs have so readily assumed activities and functions outlined as part of the informational role in teacher-board negotiations is because that same information was already being produced for other purposes. Negotiators for teachers and for boards in other states may have found, as they did in Michigan, that information available in SEA bulletins or publications was a useful bargaining tool -- and used it.

Part Three

THE REGULATORY ROLE OF THE STATE BOARD OF EDUCATION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE MICHIGAN DEPARTMENT OF EDUCATION

In addition to the policy development role and the informational role, the Michigan SEA plays a regulatory role in the teacher-board negotiations process. Authority for the regulatory role comes from the State Constitution, state statutes and administrative rules. A decision of the Michigan Supreme Court reinforces its regulatory roles.

The State Board of Education has the duty, under the 1963 Constitution of the State of Michigan, to provide leadership and general supervision over all public education.[1] In 1969 this duty was further reinforced by a Michigan Supreme Court decision which, among other things, states that it was the responsibility of the State Board of Education to specify what constitutes a school day.[2]

Many of Michigan's administrative rules that a local school district must follow to determine eligibility for state aid were promulgated by the State Board of Education several years prior to the passage of Public Act 379 -- the Act that allowed teachers to bargain collectively with their board employers. None of the rules, however, specifically covered the length of the school day. It may be noted that even in view of the provisions of Public Act 379, enacted in 1965, which delineated the scope of bargaining "...to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment...." (emphasis added), the Michigan Supreme Court, in a 1969 ruling that was subsequent to the passage of Public Act 379, held that the State Board of Education has the authority under the State Constitution to set the minimum number of hours of student instruction. Teacher bargaining units may, however, bargain over "working hours" for their members, but not the number of hours that the students shall receive instruction.

Statutes or rules that require monitoring by the Michigan Department of Education, in the area of teacher-board negotiations, center around four specific responsibilities that the State Board of Education shares with the local school districts. The four specific responsibilities are:

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[1] Constitution of the State of Michigan of 1963, Article 8, Section 3.
[2] 382 Mich 620, 1960, Welling v Livonia Board of Education.

1. Each school district is to provide a minimum of 180 days of student instruction.[3]

2. Each school district is to provide a minimum of 900 hours of student instruction.[1]

3. Each school district on the fourth Friday following Labor Day must conduct a membership count so that the amount of state membership aid due each district may be determined.[2]

4. Each school district must submit a balanced budget to the Department of Education by November 1.[3]

MONITORING TEACHER-BOARD CONTRACT NEGOTIATIONS

How the Monitoring Process Is Carried Out

To carry out the four responsibilities the Michigan Department of Education monitors the progress of teacher contract negotiations through information collected from the intermediate school districts stating which districts have a ratified or tentative agreement with their teachers. Information is gathered, as well, to identify the districts experiencing a teacher work stoppage due to a labor contract dispute.

Beginning in August, the month prior to the usual date that the new school year begins, surveys are conducted by the Department's Negotiations Office to determine the status of teacher-board contract negotiations in each of Michigan's 530 K-12 school districts. A short report based on the information received in the survey is compiled each week (See Appendix A). Both the survey and a report on the information revealed by the survey are released by the Superintendent of Public Instruction to the Governor, the State Board of Education, the Michigan Employment Relations Commission, and the state's employee and employer organizations. The Superintendent of Public Instruction also issues a press release to the news media so that the general public is informed about the progress of teacher-board negotiations.

The chart on the following page outlines, in brief, the procedures followed each year by the Michigan Department of Education when collecting and disseminating the information on the status of teacher-board contract negotiations during the months of August and September. If circumstances warrant, additional surveys are conducted on a monthly basis during the fall and winter months so that those districts without ratified contracts may be identified. Department staff contacts those districts identified by the previous survey as a district without a ratified teacher-board agreement. In this manner, districts facing a potential labor dispute or interruption in the provision of educational services can be identified throughout the school year. A calendar outlining the Department's monitoring activities for each year follows the procedure chart.

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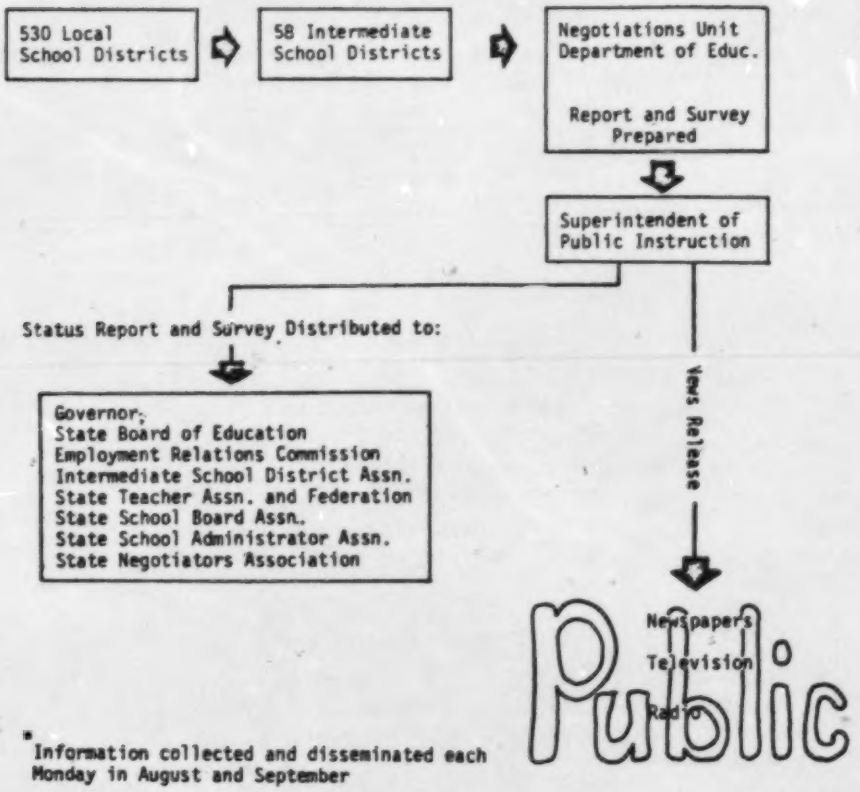
1 Administrative Code R 340.10, promulgated August, 1970
2 Act 258 of the Public Acts of 1972, Cpt. 10, 388.1201, Sec. 101 (1)
3 Act 258 of the Public Acts of 1972, Cpt. 10, 388.1202, Sec. 102

STATE DEPARTMENT OF EDUCATION

Negotiations, Tenure
and Retirement Unit

SUBJECT: Procedures for Collecting and Disseminating Information on the Status of Teacher Contract Negotiations*



*Information collected and disseminated each Monday in August and September

MICHIGAN DEPARTMENT OF EDUCATION

CALENDAR FOR MONITORING TEACHER-BOARD NEGOTIATIONS

JULY

Week 2 - Notify intermediate and local districts about upcoming MDE surveys on the status of teacher-board negotiations.

AUGUST

Week 1 - 1st survey, report, and press release.
Week 3 - 2nd survey report, and press release.
Week 4 - 3rd survey, report, and press release.

SEPTEMBER

Week 1 - Superintendent notifies districts without teacher contracts about requirement to provide 180 days of student instruction.
- 4th survey, report, and press release.
- 1st Tuesday after Labor Day, Superintendent notifies districts not in session of State Board of Education's concerns that districts and teachers meet needs of children. Urges negotiations continue and opening schools. Notifies Governor and Legislature of situation.

Week 2 - 5th survey, report, and press release.
- 2nd Monday after Labor Day, Superintendent suggest local districts not in session institute legal action to ensure opening schools while negotiations continue - also warns that district will be ineligible for state school aid if not in session on official membership count date.

Week 3 - 6th survey, report, and press release.

Week 4 - 4th Friday in September - official membership count date.
- 7th survey, report, and press release.

OCTOBER

Week 1 - Superintendent notifies districts ineligible for state school aid that October state aid payment has been withheld.

Week 4 - Telephone survey of districts without ratified teacher contracts.

NOVEMBER

Week 4 - Telephone survey of districts without ratified contracts.

DECEMBER

Week 1 - Report to State Board of Education on balanced budgets filed by school districts.

Week 2 - Telephone survey of districts without ratified contracts.

JANUARY THROUGH JUNE Monthly telephone surveys to districts without ratified contracts.

Information Collected in the Monitoring Process

Each year, with the cooperation of the Michigan Association of Intermediate School Administrators, the Department of Education is able to report both the number and percentage of Michigan's K-12 school districts that have reached either a contract agreement or a tentative agreement with their teachers. The report also indicates the number and percentage of those districts experiencing a teacher work stoppage. Similar statistics are reported about the student enrollment figures for districts in each category so that the number of school-age children affected by the work stoppage is known.

Relatively similar procedures for monitoring the status of teacher-board negotiations have been followed by the Department since 1973. Consequently, with the accumulation of this information it was possible to chart a three year comparison of the point in time when contract settlements were reached in teacher-board negotiations. This information is now included in chart form as a part of each status-of-negotiations report. If other factors are considered, such as the date state school aid legislation is passed, in conjunction with the rate and speed of teacher-board contract settlements, predictions can be made as to when settlements may be expected in current negotiations.

Each report contains data about teacher work stoppages for recent years. By including this information significant trends are more apparent.

A special category of the 35 school districts with the largest student enrollment is included in each report. The format of this section is similar to the report on the 530 school districts, and is included because it pinpoints contract negotiation status that could affect 40% of the K-12 student enrollment in the State.

Upon receiving notice of a contract settlement in a school district, the Department also records the year the contract will expire. In this way, it may be determined not only how many districts must negotiate teacher-board agreements each year but the percentage of students in those districts.

Appendix B outlines the information contained in the reports released by the Superintendent of Public Instruction.

ENSURING THAT STATUTORY AND REGULATORY RESPONSIBILITIES ARE MET

Several actions are taken when the results of the weekly status of teacher contract negotiations survey indicate that a teacher work stoppage exists in a local school district. Each party involved in the teacher-board negotiation process in such a district is notified in a letter from the Superintendent of Public Instruction that neither side may agree to a contract provision which would conflict with the statutory requirement to provide a minimum of 180 days of student instruction (See Appendix C).

Further, if it appears that the official membership count may be threatened due to a teacher-board labor dispute, letters from the Superintendent of Public Instruction go to representatives of each party (See Appendix D).

These actions are designed to officially notify the local boards of education and the employee bargaining units of the statutes or regulations requiring provision of a minimum of 180 days and 900 hours of student instruction. It also serves to remind both parties about the advisability of having schools open and in session well before the official membership count date so that the prerequisites may be met for determining the amount of state aid revenue a district is eligible to receive.

The purpose of this action by the Superintendent of Public Instruction is to make sure each party is aware of the consequences if a lengthy labor dispute results in non-compliance with the statutory and regulatory responsibilities just listed. The possibility of a reduced educational program as well as a staff reduction is raised.

The parties in the labor dispute are urged to either reach a settlement, open schools while continuing to negotiate or seek a court injunction ensuring the operation of the schools. In addition, they are urged to consider the implications of schools which remain closed to students. Such actions are consistent with the policy established by the State Board of Education as well as the section of the Public Employment Relations Act which prohibits strikes by public employees.

Notification regarding the statute that requires each school district submit a balanced budget by a specified date serves to remind each party about the prohibition, except in certain instances, against adopting a deficit budget, and also of the finite resources available for operating the schools.

A teacher work stoppage sometimes makes it necessary to rearrange the school calendar to make up strike days. Information is collected by the Negotiations Office as to how the two parties expect to extend the school calendar to ensure provision of the minimum number of days of student instruction. This information is shared with and acted upon by the Department's service area responsible for child accounting and the distribution of state school aid funds to local school districts.

The Governor and the key state legislators are kept apprised of actions taken by the Superintendent of Public Instruction when teacher work stoppages occur, as is the director of the Michigan Employment Relations Commission. The Commission is the administrative agency responsible, among other things, for providing mediation and factfinding services for the parties in public sector labor disputes in the state. The leaders of the state's teacher unions and associations are also informed of the actions taken by the Superintendent of Public Instruction.

SUMMARY OF THE REGULATORY ROLE

Several actions are undertaken by the State Board of Education and the Department of Education relative to teacher-board negotiations. The actions are designed to assist in carrying out the statutory and regulatory

responsibilities that might be affected by teacher-board negotiations. In brief, those responsibilities are to ensure that each school district provides a minimum of 180 days and 900 hours of student instruction, to ensure that the official student membership count is taken on the date specified by state statutes, and to ensure that each school district submits a balanced budget by the date specified in statute.

Several actions are undertaken to discharge there responsibilities. In brief they are 1) to monitor the progress of teacher-board negotiations, 2) to inform the parties experiencing work stoppages of their responsibility to take appropriate action in order to open schools and comply with statutory requirements, 3) to collect information as to how the school calendar would be extended if a work stoppage threatened non-compliance with the provision of a minimum of 180 days and 900 hours of student instruction. These actions have been followed since 1973.

Part Four

OBSERVATIONS AND CONCLUSIONS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION, DR. JOHN W. PORTER

A new era for teachers and boards of education came into being when public employees of Michigan gained the right to organize and bargain collectively. When Public Act 379 became law in 1965, it altered considerably the nature of the employment relationship between teachers and boards of education. Before 1965 the hours, salaries, and working conditions for teachers were set unilaterally by boards of education. Since 1965, the formation of teacher bargaining units seeking co-determination of hours, salaries, and working conditions forced boards of education to change their ways.

Inevitably, teacher-board negotiations affect more than just the parties that sit across from one another at the bargaining table. Categories of people also were and are affected; namely, students, parents, school administrators, and taxpayers. Institutions, or relationships and organizations in the educational community, also affect and are affected by teacher-board negotiations. And, without doubt, the Michigan Department of Education was affected by the advent of teacher-board negotiations.

John Porter has had ample opportunity to examine how the arena of teacher-board negotiations has affected both the people and the institutions of Michigan. He has been with the Michigan Department of Education since 1959 and has served as the Superintendent of Public Instruction for the State of Michigan since 1969. His tenure as the chief education officer in a state having a collective bargaining law covering teachers is longer than that of anyone else.

This section, on the observations and conclusions of the Superintendent of Public Instruction, falls into three general areas: what has happened in ten years of teacher-board negotiations in Michigan, where we are now, and where we are going.

What has happened in ten years of teacher-board negotiations in Michigan

From the time the right to bargain collectively was extended to Michigan's public school employees as well as to certain other public employees in 1965, the primary role and concern of the State Board of Education in this area have been to ensure that the right of school age children to a quality education was not denied or diminished due either to a break down in the collective bargaining process or to provisions in agreements reached in contracts between teacher bargaining units and local boards of education. This continues to be of primary importance to the State Board of Education and to the Superintendent of Public Instruction. It is the guiding force that dictates the activities and functions carried out by the Michigan Department of Education in the area of teacher-board negotiations.

From 1965 to the present time, with few exceptions, teacher-board contract negotiations have not unduly interfered with this main or primary goal of the Department of Education. The collective bargaining process has generally worked satisfactorily each year in most of Michigan's 530 K-12 school districts. And, although not one year has passed without teacher work stoppages, those work stoppages were for the most part of a limited duration. Thus, it was possible to rearrange the school year calendar to provide for a minimum of 180 days and 900 hours of student instruction as required by statute and administrative rule in Michigan.

It must be pointed out, however, that without a legal basis established in the statutes and administrative rules providing for a minimum number of days and hours of student instruction, it would be extremely difficult to sustain legal proceedings aimed at ensuring the provision of educational services for Michigan's youngsters.

Given the nature of teacher-board negotiations, it is essential to have legislation prohibiting the adoption of a deficit budget by a local school district. Without this statute, deficit budgeting would be an expedient alternative to be used whenever negotiations moved especially difficult. Legislative parameters imposed upon both parties at the bargaining table reduce the possibility that agreements will be reached that would reduce the quantity of educational services provided to the school-age youngsters of the state or ignore the realities of the limits of the resources made available by the taxpayers.

In addition to the present statutes that establish a legal basis for actions by the State Board of Education to carry out its responsibilities, the enactment of several additional statutes would provide a more orderly legal basis for the Department in fulfilling existing regulatory responsibilities. The Superintendent of Public Instruction has recommended legislation or regulations that would establish a final date for opening schools, allow for alternate official membership count dates, and mandate that local districts file a calendar for their school year with the Michigan Department of Education.

A statute setting forth the last date for student instruction to begin each school year would provide a clear bench mark for negotiators and the public to focus upon. Bargaining could still take place that would allow an earlier beginning date for schools to open, but if no agreement was reached schools would open no later than the date designated by statute. Legal proceedings could then be instituted by the State Board of Education to ensure that student instruction would begin by a certain time each school year.

If, for any reason, a school is not in session on the one official membership count date the Michigan Department of Education may not distribute state school aid to that district. One change in legislation that would provide for an official membership count after school is in session for a few weeks would allow the distribution of state school aid in districts when teacher work stoppages or other disruptions in schooling were over. Such a change would eliminate the need for special legislative action whenever the one present official membership count date is missed.

The Superintendent of Public Instruction recommends that each local board of education should be required by law to file a school calendar with the Michigan Department of Education when contract agreement is reached. The calendar to be filed would indicate how the requirements for the provision of 180 days and 900 hours of student instruction would be met by the school district.

Of course, other factors in addition to the statutory limitations have to be considered by those at the bargaining table. They, too, serve as parameters or boundaries and include, but are not limited to, the level of state and local funding earmarked for education, the supply of the available instruction staff compared to demand, the effect of an increase or decrease in the student enrollment in a given school district, the general economic conditions existing in the state, the degree of militancy on the part of teacher unions to protect and advance the position of their constituents, the provisions of state statutes covering teacher tenure, teacher retirement, unemployment compensation, the provisions of federal statutes prohibiting discrimination on the basis of race, color, religion, sex or national origin and the educational programs mandated by the state. Collective bargaining rights force bi-lateral consideration and agreements as to the final intermeshing of all these factors.

Disputes have arisen, and no doubt will continue to arise, in attempting to reach an equitable agreement satisfactory to both parties when they try to place in perspective all elements that serve as parameters to the bargaining process. In the majority of cases, the dispute resolution provisions in the Public Employment Relations Act (PERA) for mediation and factfinding assistance enable the parties to reach mutually satisfactory agreements.

In a few instances, however, existing dispute resolution provisions have not been equal to resolving the differences between teacher bargaining units and boards of education. In spite of all assistance, invited or uninvited suggestions and pressure from all levels of both the citizenry and government officials, mutual settlements were not reached. As a result of this inability of the parties to reach agreement on the issues in dispute extended teacher work stoppages prevented the provision of 180 days of student instruction for the children enrolled in several school districts.

While the Department of Education established procedures to assist in dealing with similar disputes in a timely manner should they arise in the future, others who were not satisfied with the dispute resolution procedures in the PERA introduced proposals to amend PERA designed to improve the situation. Most of the proposals to amend PERA would have lifted the prohibition against strikes by public school employees. Most also provided for some form of arbitration for disputed contract issues at impasse through the use of a neutral third party.

One proposal, allowing legal but limited strikes by public school employees and arbitration of impasse issues in dispute, passed both the House and Senate. It was subsequently vetoed by the Governor. He

based his veto on the belief that the legislation would increase the incidence of teacher strikes rather than discourage them.

Observers of the Michigan experience in teacher-board contract negotiation over the past ten years conclude that services performed by employees will be withheld regardless of the existing laws. The history of this nation bears out the truth that the amount of social control that can be exercised simply by passing a law is very strictly limited. Certainly this is true in the area of collective bargaining. One has only to look to the statistics covering the past ten years on teacher work stoppages for Michigan (where strikes by public employees are prohibited by statute) as well as those from across the nation. From 1965 to 1975 there were 256 teacher work stoppages in Michigan and 1,255 in the United States. (See Table A that follows Part IV)

Where we are now

The United States Supreme Court early this summer (1976) issued several decisions which are of critical importance to anyone connected with public sector collective bargaining. In League of Cities v Usery the Court ruled that Congress had exceeded its power over local public employees. Amendments to the Fair Labor Standards Act in 1966 and 1974 extending federal minimum wage and overtime standards to virtually all state and local public employees were declared unconstitutional. This decision is viewed by many as a basis for closing the door on a federal law extending collective bargaining rights to teachers on a national basis.

It is the view of the Superintendent of Public Instruction that pressure can be expected to increase at the state level in close to twenty states that are presently without a state public employment relations act. Teacher-board bargaining frequently occurs in states that do not have statutes covering such activity. Hopes for passage of federal collective bargaining legislation had served to put pressure for state legislation on a back burner. The Supreme Court ruling will rekindle the fires for collective bargaining legislation in States without such laws.

In addition, it is expected that pressure to change existing public employment collective bargaining laws will occur in those states where organized efforts determine that a need for change exists. Michigan most likely will be included in that category.

The Department's present role in teacher-board negotiations, as developed over the past few years, will continue to be carried out along similar patterns as outlined in previous sections of this publication. No doubt some role changes will occur. Just as the state of the art in the phenomenon known as teacher-board negotiations shows progress wherever it is practiced, so, too, will progress in the state of the art at the state level be marked by appropriate role changes.

The Department does not enter the teacher-board negotiations arena at the local level unless the ability to carry out constitution and legislative mandates to educate the youngsters of the state is threatened. Nor will it do so. It does intend, however, to carry out its responsibilities.

The purpose of this publication is to articulate clearly the role of the Michigan Department of Education in teacher-board contract negotiations. The functions and activities in monitoring the status and progress of teacher-contract negotiations were designed to assist in fulfilling the Department's regulatory responsibilities.

To coordinate and carry out functions dictated by the several roles of the Michigan Department of Education in the area of teacher-board negotiations, it is necessary to have staff assigned to this task. The Office of Tenure, Negotiations and Retirement carries out these functions for the Michigan Department of Education.

Where are we going

Often the Superintendent of Public Instruction is asked "Where is it all going to end?" The response generally centers around several trends that seem to point to future possibilities in the area of teacher-board negotiations.

Certain social and economic factors must be considered when postulating trends in the collective bargaining arena in education. It is well known that there is growing dissatisfaction with the local property tax as the major financial component for funding the state's education system. This dissatisfaction could eventually result in property tax relief and a different tax base wherein the state would assume the burden of supplying the greater proportion of funds for educational delivery systems.

If this occurs, the realities of collective bargaining dictate that major economic issues in teacher contract negotiations will occur at the state rather than local level. It follows, then, that the economics of the various educational delivery systems in the state would dictate the continued funding of those programs that prove effective.

The state's due process system for teachers may eventually be so blended into agreements negotiated between teacher bargaining units and boards of education that separate tenure systems will prove obsolete -- no matter how the structure of bargaining units change.

There is another question relating to teacher tenure that may be raised in the near future. If teachers are not needed in one district should they be allowed to transfer to another school district? In other words, the issue would be statewide tenure versus local tenure.

The trend toward increased openness in all governmental operations is reflected in the enactment of more "sunshine laws," across the nation. In those states or local governmental units with "sunshine laws" the collective bargaining process between teachers and boards is open to close observation by the public. The outgrowth of this trend may change teacher-board negotiations. The more bargaining that takes place in the public, the more teacher bargaining teams will find it wise to frame their demands not in terms of what is beneficial to teachers but what is good for the public and for the children.

Regardless of trends in the area of collective bargaining between teachers and boards of education, the ultimate role of the Michigan Department of Education will continue to be to provide a quality education to all of the youngsters in the State of Michigan and to see that the constitutional and legislative mandates for education are carried out in a manner that will fulfill the present and future needs of the citizens of our State.

TEN YEAR COMPARISON OF WORK STOPPAGES BY PUBLIC SCHOOL PROFESSIONAL EMPLOYEES IN MICHIGAN* AND THE UNITED STATES*

WORK STOPPAGES

School Year	Michigan	United States	Michigan's Percentage of the Total
1966-67	4	34	12
1967-68	43	114	38
1968-69	23	131	17
1969-70	52	181	29
1970-71	25	130	19
1971-72	9	89	10
1972-73	16	143	11
1973-74	50	154	32
1974-75	23	106	21
1975-76	11	173	6
TOTAL	256	1,255	20

*Michigan Department of Labor and
Michigan Department of Education data

**National Education Association data

11/26/75

STATE OF MICHIGAN

DEPARTMENT OF EDUCATION

Lansing, Michigan 48902

JOHN W. PORTER
Superintendent of
Public Instruction

August 31, 1976

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EXAMPLE: NEGOTIATIONS REPORT

STATUS OF TEACHER-BOARD CONTRACT NEGOTIATIONS

REPORT NUMBER FOUR

The fourth survey to assess the status of teacher-board contract negotiations covering the 1976-77 school year for Michigan's 530 K-12 school districts was taken Tuesday, August 31, 1976, by the Michigan Department of Education in cooperation with the Michigan Association of Intermediate School Administators. Information gained as a result of the survey has been organized in the following summary report. The survey and the key to the survey follow the summary report.

Teacher-Board Contract Status	Districts	Change from 8-24-76	Percentage
Ratified contracts -- 1976-77	261	+18	49
Tentative agreements -- 1976-77	37	+ 8	7
Negotiating for 1976-77 contracts	231	-25	44
Teacher work stoppages	1	+ 1	(.0018)

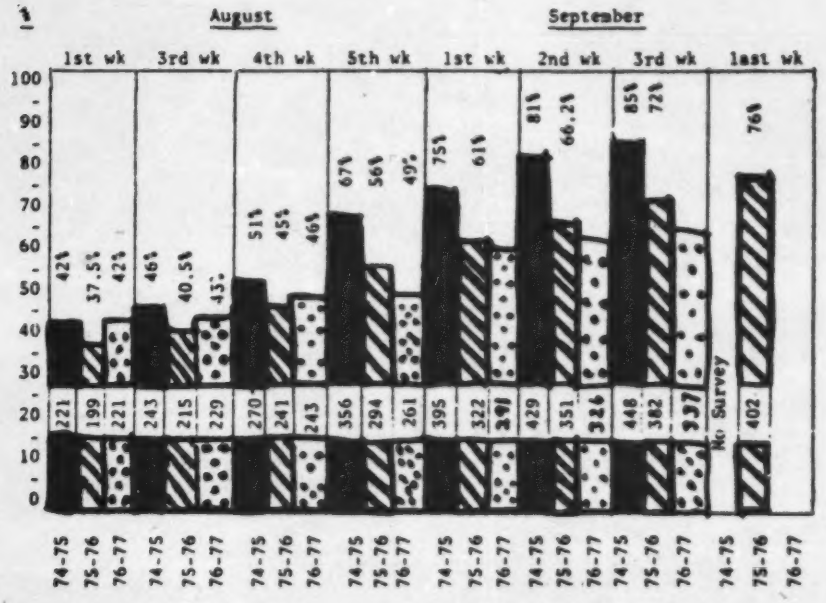
Pupil Enrollment Status	Pupils	Percentage	Change from 8-24-76
*1975-76 enrollment in districts	2,060,541	100	
With ratified contracts for 1976-77	1,209,878	59	+2
With tentative agreements for 1976-77	99,052	5	+2
Still negotiating for 1976-77	751,611	36	-4
With teacher work stoppages	1,819	(.0008)	(.0008)

Teacher Contract Status in Michigan's 35 Larges School Districts	Pupils	Districts	Change from 8-24-76
*1975-76 pupil enrollment	830,526	35	
With ratified contracts	619,880	22	+1
With tentative agreements	15,221	1	-1
Still negotiating for 1976-77	195,425	12	-
With teacher work stoppages	0	0	-

*1975-76 State Aid Membership by Grade, data prepared by the Michigan Department of Education, May 5, 1976.

MICHIGAN The Great Lake State

THREE YEAR COMPARISON
PERCENTAGE OF DISTRICTS WITH TEACHER CONTRACTS



One school district reported a work stoppage on August 31, 1976. Last year no school districts reported teacher work stoppages in the week before Labor Day.

Mediation assistance was either requested or given in 53 school districts according to the August 31, 1976, survey. This represents an increase of 13 since last week's survey. Tentative agreement on contract reopeners was reached in 4 districts. Impasse in negotiations on renewal contracts or on reopeners in existing contracts was reported in 8 districts.

The next survey will be taken on September 7, 1976. A report will be issued about the information from the survey and distributed to Governor Milliken, the Michigan Employment Relations Commission, organizations or groups in the educational community, and the news media.

Appendix A
(Continued)

MICHIGAN DEPARTMENT OF EDUCATION
1976-77 Teacher Contract Survey

August 31, 1976

SUMMARY OF REPORTS FROM 35 LARGEST DISTRICTS

District	*Enrollment	Ratified Contract	Tentative Agreement	Negotiating	Impasse	Strike
Ann Arbor	18,542	X				
Bay City	16,238	X				
Benton Harbor	10,096	X				
Birmingham	13,141	X				
Dearborn	17,672	X				
Detroit	245,545	X				
East Detroit	10,777	X				
Farmington	14,888	X				
Flint	39,558	X				
Garden City	10,576			X		
Grand Rapids	30,662	X				
Grosse Pointe	11,146			X		
Huron Valley	9,801			X		
Jackson	11,788	X				
Kalamazoo	15,221		X			
Lansing	30,475	X				
Livonia	32,606	X				
Midland	11,673			X		
Pontiac	21,056			X		
Portage	10,641	X				
Plymouth	13,242			X		
Port Huron	15,275			X		
Roseville	12,065			X		
Rochester	10,036	X				
Royal Oak	13,829			X		
Saginaw	19,201	X				
Southfield	13,436	X				
Taylor	21,557			X		
Traverse City	9,539	X				
Troy	9,644	X				
Utica	26,702	X				
Walled Lake	11,328	X				
Warren	32,916			X		
Waterford	17,365	X				
Wayne-Westland	22,289			X		
TOTAL	830,526					
TOTAL CHILDREN AFFECTED		619,880	15,221	195,425		

*1975-76 State-Aid Membership by Grade, data prepared by the Michigan Department of Education, May 5, 1976.

Offite of Tenure, Negotiations, and Retirement 8-31-76

MICHIGAN DEPARTMENT OF EDUCATION
Intermediate School District
Area Designations
(58)

STATUS OF TEACHER-BOARD CONTRACT NEGOTIATIONS

ACCORDING TO THE 8-24-76 SURVEY

40 districts report requests for mediation or are negotiating with mediation assistance.

7 districts report impasse in negotiations on contract renewal or on reopeners.

1 district reports this week that fact-finding has been requested. This brings the total to 3 requests for fact-finding.

1. M = Mediation requested or given.
2. FF = Fact finding requested or in progress.
3. IMP = Impasse.
4. The bottom numeral in the fraction indicates the number of constituent school districts in an intermediate school district.
5. The top numeral in the fraction indicates the number of school districts without ratified contracts for 1976-77.
6. The number in parentheses indicates the number of school districts with ratified contracts that are negotiating contract reopeners.

MICHIGAN DEPARTMENT OF EDUCATION
Intermediate School District
Area Designations
(58)

STATUS OF TEACHER-BOARD CONTRACT NEGOTIATIONS
ACCORDING TO THE 8-31-76 SURVEY

53 districts report requests for mediation or are negotiating with mediation assistance.

4 districts report impasse in negotiations on contract renewal or on reopeners.

Fact finding has been requested or is in progress in 4 districts.

1. M = Mediation requested or given.
2. FF = Fact finding requested or in progress.
3. Imp = Impasse.
4. T = Teacher work stoppage.
5. The bottom numeral in the fraction indicates the number of constituent school districts in an intermediate school district.
6. The top numeral in the fraction indicates the number of school districts without ratified contracts for 1976-77.
7. The number in parentheses indicates the number of school districts with ratified contracts that are negotiating contract reopeners.

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Appendix B

MICHIGAN DEPARTMENT OF EDUCATION

Information Contained in Reports Released by the Superintendent of Public Instruction on the Status of Teacher-Board Contract Negotiations.

Each report contains the following information.

1. The number and percentage of local school districts which have:

   a. a ratified labor agreement with teachers
   b. a tentative labor agreement with teachers
   c. not yet completed negotiations on a labor agreement with teachers
   d. a teacher strike
   e. not reported the status of negotiations with teachers.

2. The number and percentage of pupils enrolled in school districts which have:

   a. a ratified labor agreement with teachers
   b. a tentative labor agreement with teachers
   c. not yet completed negotiations on a labor agreement with teachers
   d. a teacher strike
   e. not reported the status of negotiations with teachers.

3. A table which compares the number of labor agreement settlements during the current year with those reached during a similar period of time in previous years.

4. A comparison of teacher strike activity in the current year with a similar period of time in previous years.

5. A special category with similar information as in numbers 1 and 2 above for the state's 35 largest school districts.

6. Two maps that reflect changes in the numbers of local school districts, within intermediate school districts, that are without ratified contracts. The maps also show mediation, fact-finding, impasse, and strike activity by intermediate school districts.

7. The survey itself which contains a cumulative and detailed record of the progress of contract negotiations, including the year each local school district's labor agreement with the teachers expires.

STATE OF MICHIGAN

Appendix C

DEPARTMENT OF EDUCATION

Lansing, Michigan 48902

JOHN W. PORTER
Superintendent of
Public Instruction

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GOV. WILLIAM G. MILLIKEN
Ex-Officio

EXAMPLE: LETTER WARNING OF THE REQUIREMENT TO PROVIDE MINIMUM OF 180 DAYS OF STUDENT INSTRUCTION

Dear Superintendent:

According to the September 2, 1975, survey by the Michigan Department of Education as to the progress of teacher contract negotiations, your school district is among those which do not have a ratified master agreement with its teaching staff.

We are mindful of the collective bargaining situation in your district and want you to know we understand the responsibilities and pressures all parties in the teacher contract bargaining process face as they try to reach an agreement that will prove fair and equitable to all while still serving the educational needs of Michigan's children.

It should be remembered, however, that each individual school district has responsibilities towards all school-age children within its boundaries. These responsibilities include providing 180 days of student instruction as required by the Legislature. Therefore, this letter serves as a reminder to the board of education and the teachers' association in your district that present Michigan statutes require provision of 180 days of student instruction for all of Michigan's school-age children by the end of the school year on June 30, 1976.

School boards and teachers may not agree to a contract provision which would conflict with the 180 days of student instruction requirement of MCLA 340.575; MSA 15.3575 and MCLA 388.1201(2); MSA 15.1919(601) (2). (See Attachment A)

The State Board of Education fully intends to enforce the requirement for 180 days of student instruction by instituting timely and appropriate legal action to compel compliance with the statutes referred to above.

Sincerely,

John W. Porter

Attachment

cc President, Local Board of Education
President, Local Educational Association

MICHIGAN The Great Lake State

ATTACHMENT A

MCLA 340.575; MSA 15.3575 provides:

"The board of every district shall determine the length of the school term. The minimum number of days of student instruction shall not be less than 180. Any district failing to hold 180 days of student instruction shall forfeit 1/180-th of its total state aid appropriation for each day of such failure. Not later than August 1, the board of every district shall certify to the department of education the number of days of student instruction in the previous school year. If the district did not hold at least 180 days of student instruction, the deduction of state aid shall be made in the following fiscal year from the first payment of state aid. Days lost because of strikes or teachers conferences shall not be counted as a day of student instruction. The state board of education shall establish rules for the implementation of this section."

MCLA 388.1201(2); MSA 15.1919(601) (2) provides:

"Each district shall provide a minimum of 180 days of student instruction. A district failing to hold 180 days of student instruction shall forfeit 1/180 of its total state aid appropriation for each day of such failure. A district failing to comply with rules promulgated by the state board which establish the minimum time student instruction is to be provided to pupils for the regular school year shall forfeit from its total state aid appropriation an amount determined by applying a ratio of the time duration the district was in noncompliance in relation to the minimum time student instruction is required. A district failing to meet both the minimum 180 days of student instruction requirement and the prescribed time of student instruction requirement shall be penalized only the higher of the 2 amounts calculated under the above forfeiture provisions. Not later than August 1, the board shall certify to the department the number of days of student instruction in the previous school year. If the district did not hold at least 180 days of student instruction, the deduction of state aid shall be made in the current fiscal year. Days lost because of strikes or teachers' conferences shall not be counted as a day of student instruction. The state board shall promulgate rules for the implementation of this section. . . ."

STATE OF MICHIGAN

Appendix D

DEPARTMENT OF EDUCATION

Lansing, Michigan 48902

JOHN W. PORTER
Superintendent of Public Instruction

EXAMPLE: FIRST LETTER SENT TO SCHOOL SUPERINTENDENT AND PRESIDENT OF EDUCATION ASSOCIATION WHEN SCHOOLS ARE NOT OPENED DUE TO LABOR DISPUTES

STATE BOARD OF EDUCATION
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Treasurer
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DR. PAUL B. HENRY
BARBARA J. ROBERTS
NORMAN OTTO STOCKMEYER, JR.
GOV. WILLIAM G. MILLIKEN
Ex-Officio

September 6, 1974, was the end of the first week of school in most of Michigan's K through 12 school districts. Your district, along with a number of others, has not begun school due to an impasse in negotiations. There are approximately 70 other districts that have reached some impasse, but who have opened school in order to provide instruction for the children and youth of those school districts. At the same time, negotiations have continued between teachers and school officials.

The State Board of Education has a continuing policy, adopted in August of 1967, relative to the subject of teacher contract negotiations, which stresses the importance of local resolution of conflicts in negotiations. The essence of this policy is to urge that all parties continue negotiations while schools are in operation. This office has not attempted, nor will it attempt, to influence the outcome of negotiations.

However, it is clear that the State Board of Education has a vital concern about any continuing impasse that may result in vital educational services being denied children and youth. For this reason, I feel it incumbent upon me, as State Superintendent of Public Instruction, to spell out in clear and concise terms the responsibilities assigned to the State Board of Education, either by present statute or administrative rule, to ascertain that local boards of education have met their responsibilities. These responsibilities are four in number.

--It is the responsibility of the State Board of Education to ensure that each school district in the state provides a minimum of 180 days of student instruction, regardless of whether or not the district receives state aid.

--It is the responsibility of the State Board of Education to ensure that each school district provides the minimum prescribed hours of student instruction for each student as required under State Administrative Rule 340.10.

--It is the responsibility of the State Board of Education to ascertain, in cooperation with intermediate school districts and local school districts, the number of students in membership on the fourth Friday following Labor Day in order that

the Department of Education can determine the amount of state membership aid to be provided each school district.

--Finally, it is the responsibility of the State Board of Education to ensure that each local district submit a balanced budget for the 1974-75 fiscal year, in accordance with Section 102, Act 258, Public Acts of 1972 as amended.

It is within the context of these four specific responsibilities that I urge your local teacher organization and local board of education to begin instruction while negotiations continue.

This is especially urgent as we approach September 27, the official membership count date for state aid purposes. Where such counts are based upon inadequate data because of a lack of time to identify and register many of the school children in a district, it means that the membership count may be less than it could be, resulting, therefore, in monetary penalties to the district and possibly to the teachers. Even more critical is the fact that if there is no fourth Friday count, a school district otherwise eligible, will suffer the loss of state aid payments unless the Legislature acts to amend the law to provide an additional count day. This could lead to reduced programs and reduced personnel to the detriment of the entire school district's program.

It is within the context of these concerns that I communicate with you at this time, urging both sides to consider the implications of continued closed school doors. Hopefully a satisfactory resolution can be reached wherein the school doors will open in all of the involved school districts. This will ensure compliance with the above state requirements while, at the same time, the serious and necessary issues relative to negotiations are being resolved at the bargaining table.

Sincerely,

John W. Porter

cc: Superintendent of Schools
President, Board of Education
Executive Secretary MEA
Director Michigan Employment Relations Commission

STATE OF MICHIGAN

DEPARTMENT OF EDUCATION

Lansing, Michigan 48902

JOHN W. PORTER
Superintendent of
Public Instruction

EXAMPLE: SECOND LETTER SENT TO DISTRICTS IF OFFICIAL MEMBERSHIP COUNT DAY THREATENED DUE TO LABOR DISPUTE

STATE BOARD OF EDUCATION
MARILYN JEAN KELLY
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Treasurer
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BARBARA J. ROBERTS
NORMAN OTTO STOCKMEYER, JR.
GOV. WILLIAM G. MILLIKEN
Ex-Officio

On September 10, I wrote you concerning the impasse in teacher contract negotiations between the Community Schools Board of Education and the Education Association. I find that your schools are still closed as of today, thus denying needed educational services during the month of September to the children and youth.

Among other items in my previous letter, I identified four concerns of the State Board of Education and this office. These concerns were:

--a minimum of 180 days of instruction, regardless of whether or not the district receives state aid;

--the minimum prescribed hours of student instruction;

--the fourth Friday following Labor Day membership count for state aid, and

--the State Board of Education's responsibility to ensure that each local school district submit a balanced budget.

The letter of September 10 was sent to assure understanding of the listed responsibilities by all parties concerned. For that reason, similar letters went to all parties involved.

In compliance with the existing state aid provision, any school district not in session with its pupils in regular daily attendance on the fourth Friday after Labor Day will not receive its October state aid payment. If your district is in session with pupils in regular daily attendance on or by Friday, September 27, it will receive its October state aid payment which, according to our records is $_____.

In my concern to protect the interests of Michigan's children and youth, as well as the interests of parents, teachers, school board members and school officers, and to carry out the aforementioned responsibilities of the State Board of Education, I am requesting that either of the following two actions be taken immediately:

1. That an agreement be reached prior to Monday, September 23, 1974 between the teachers and the board of education to open school while negotiations continue; or, failing that,

2. That the board of education and/or the teachers and/or a citizens group seek a court injunction ordering that the schools be operated while the negotiations continue.

I would appreciate a response from your district to the above alternatives by 1:00 p.m. on Friday, September 20, 1974.

Sincerely,

John W. Porter

cc: President, Board of Education
President, Education Association
Executive Secretary Michigan Education Association
Director of the Employment Relations Commission
State Mediator

MICHIGAN STATE BOARD OF EDUCATION

STATEMENT OF ASSURANCE OF COMPLIANCE WITH FEDERAL LAW

The Michigan State Board of Education hereby agrees that it will comply with Federal laws prohibiting discrimination and with all requirements imposed by or pursuant to regulations of the U.S. Department of Health, Education and Welfare. Therefore, it shall be the policy of the Michigan State Board of Education that no person on the basis of race, color, religion, national origin or ancestry, age, sex, or marital status shall be discriminated against, excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any federally funded program or activity for which the Michigan State Board of Education is responsible or for which it receives federal financial assistance from the Department of Health, Education and Welfare. This policy of non-discrimination shall also apply to otherwise qualified handicapped individuals.